

Please amend Claim 34 as follows:

By 34. (Amended) The syringe of claim 29, further comprising an actuator extending adjacent to and in communication with the energizing source, the actuator activating the energy source to push the piston.

REMARKS

Claims 29 and 31-39 remain in this application with Claim 30 having been cancelled and with Claims 40-82 having been previously cancelled based on an election filed on April 26, 2002 to expedite the prosecution of this application; Claims 1-28 were previously cancelled in a Preliminary Amendment filed on July 17, 2000.

An information disclosure statement was filed, along with PTO Form 1449, when the above-identified case was originally-filed. Attached as Exhibit A is a copy of that information disclosure statement along with the returned receipt post card indicating that it was received by the PTO. However, no signed copy of that PTO Form 1449 was included with the Office Action dated July 30, 2002. In a telephone message left by Examiner Hayes to the undersigned on October 28, 2002, the Examiner recommended sending him another copy of PTO Form 1449. Applicants respectfully request that the references cited in that information disclosure statement be considered by the Examiner and that a signed copy of the attached PTO Form 1449 be sent to Applicants.

The Examiner has rejected Claims 29-39 under 35 U.S.C. §112, second paragraph as being indefinite. In particular, the Examiner asserts that essential elements or essential structural cooperative relationships have been omitted resulting in a gap between the elements or necessary structural elements and they are those elements required to cause the piston to drive liquid from the reservoir into the injection site when

the sleeve moves from the second position to the activation position. To that end, Applicants have amended Claim 29 to specify an energization source that is activated by movement of the nozzle sleeve to move the piston which drives a liquid from the reservoir into the injection site through the needle. Applicants respectfully submit that Claim 29 is now compliant with §112, second paragraph and respectfully request that that rejection be withdrawn.

The Examiner has also rejected Claims 29 and 31-39 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-10 of U.S. Patent No. 6,099,504 (Gross et al.). To that end, Applicants have attached herewith as Exhibit B a terminal disclaimer and Certification under 3.73(b) to overcome the double patenting rejection.

It should be noted that the Examiner states:

...Although the conflicting claims are not identical, they are not patentably distinct from each other because both groups recite a syringe having a biased nozzle sleeve that activates a citric acid gas generator when moved to an activation position... (Office Action, p. 3).

However, neither Claims 1-5, 7-10¹ and 13-15 of U.S. Patent No. 6,099,504 (Gross et al.) nor Claims 29, 31, 33-39² of the present invention are limited to a citric acid gas generator, as stated in the Specification of the '504 patent and the present application:

For example, other chemically reactive materials other than citric acid and sodium bicarbonate may be used in connection with

¹Claim 6 of the '504 patent specifies: The syringe of claim 4 wherein the components of the effervescent coupled are citric acid and sodium bicarbonate respectively.

²Claim 32 of the present application specifies: The syringe of claim 31 wherein the gas generator includes a first chamber containing a citric acid solution and a second chamber containing sodium bicarbonate solution.

the gas generator of the present invention³.

Attached hereto is a marked-up version of the changes made to the Specification and claims by the current amendment. The attached page is captioned **"Version with markings to show changes made."**


In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 29 and 31-39 now appearing in this application are allowable and such favorable action is respectfully requested. The Examiner is encouraged to contact the undersigned by telephone if it is believed that further discussion may lead to an early allowance of the claims.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

December 3, 2002

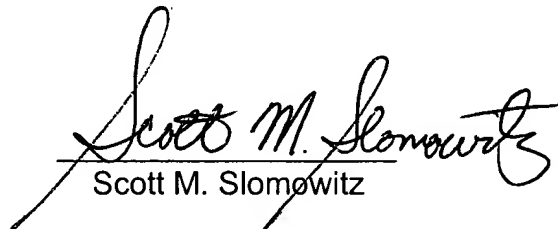
By


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³U.S. Patent No. 6,099, 054 (Gross et al.), col. 9, lines 14-17 and Present Application, page 16, lines 6-8.

CERTIFICATE OF MAILING

I hereby certify that the foregoing AMENDMENT, PETITION FOR EXTENSION OF TIME and EXHIBITS A-B re Application Serial No. 09/617,340 are being deposited with the United States Postal services as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Washington, D.C. on this 3rd day of December, 2002.


Scott M. Slomowitz

Version with Markings to Show Changes Made

IN THE SPECIFICATION:

On page 13, line 14, replace the number "27" with - -17- -.

IN THE CLAIMS:

29. (Amended) A syringe comprising:

a barrel having a liquid drug reservoir therein, the barrel having a first end and a second end, the drug reservoir having a piston slidingly engaged therein;

a needle assembly mounted at the first end of the barrel, the needle assembly holding a needle;

an energization source, located at the second end of the barrel;

a nozzle sleeve moveably mounted on the first end of the barrel from a first position where the tip of the needle is concealed by the nozzle sleeve to a second position where the tip of the needle is exposed, to an activation position, wherein when the nozzle sleeve is initially pressed against an injection site, the nozzle sleeve moves from the first position to the second position, and the tip of the needle penetrates the injection site, and when the sleeve moves from the second position to the activation position, said energization source is activated to move said [the] piston which drives a liquid from the reservoir into the injection site through the needle.

Please cancel Claim 30.

Please amend Claim 31 as follows:

On line 1, replace "30" with - -29- -.

Please amend Claim 34 as follows:

On line 1, replace "30" with - -29- -.